

ORIGINAL

United States District Court
for the
DISTRICT OF HAWAIIFILED
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
JUL 15 2008
at 10 o'clock and 2P
SUE BEITIA, CLERKRequest for Modifying the Conditions or Term of Supervision
with Consent of the Offender
(Probation Form 49, Waiver of Hearing is Attached)Name of Offender: KOLIAH JARDINE Case Number: CR 01-00445SOM-01
aka "Spikey"Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 8/15/2002

Original Offense: Count 1: Conspiracy to Distribute and Possess With Intent to Distribute More Than 50 Grams of Methamphetamine, in violation of 21 U.S.C. § 846, a Class A felony

Original Sentence: Eighty seven (87) months imprisonment followed by 5 years supervised release with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant provide the Probation Office access to any requested financial information; and 3) That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 4/11/2008

PETITIONING THE COURT

 To modify the conditions of supervision as follows:

General Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter, but no more than 8 valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day.*

Special Condition No. 1: *That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.*

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	On 7/5/2008, the subject failed to submit to drug testing.

The subject's supervised release commenced on 4/11/2008. The subject was immediately referred to the Freedom Recovery Services (FRS) for counseling and random drug testing. In regards to drug testing, the subject is required to call a message recorder on a daily basis for drug testing instructions.

The subject left a message on this officer's voice mail on 7/6/2008, at 1:25 a. m., stating that he fell asleep and did not make it to his drug test on 7/5/2008. On 7/8/2008, the subject reported to the office and expressed remorse for missing the drug test. In explanation, the subject advised that he was exhausted after volunteering at a body boarding contest and immediately fell asleep when he returned home. He was verbally reprimanded for the violation.

The subject has a significant history of alcohol, "crack" cocaine, marijuana and methamphetamine abuse. As a result, given the ruling in U.S. v Stephens, the recommended modifications will enable the Probation Office to implement controlling strategies to detect substance abuse and ensure that he does not reinvolve himself in noncompliant behavior.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,


MERILEE N. LAU
U.S. Probation Officer

Approved by:


for PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 7/11/2008

THE COURT ORDERS:

The Modification of Conditions as Noted Above
 Other


SUSAN OKI MOLLWAY
U.S. District Court

JUL 11 2008

Date

United States District Court

District of Hawaii

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release and/or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

General Condition:

That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision , unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day. (mandatory condition).

Special Condition No. 1:

That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:


MERILEE N. LAU
U.S. Probation Officer

Signed:


KOLAIAH JARDINE, aka "Spikey"
Supervised Releasee

7-8-08
Date

NOTICE REGARDING MODIFICATION OF CONDITIONS

The defendant understands that any modification of court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the court as a basis for revoking supervised release or probation, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

The absence of this notice does not confer, and should not be interpreted by the defendant as conferring, any rights on the defendant. The absence of this notice does not indicate, and should not be interpreted by the defendant as indicating, any position by the court or by the defendant. Even in the absence of this notice, supervised release or probation may, in the future, be revoked based on violations occurring before this or any other modification of conditions.

Agreed to and acknowledged:

Koliah Jardine

Defendant

Print Name: 

Date: 7/8/08